

**Order 96-1-46**

**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

**SERVED FEB 6 1996**

Issued by the Department of Transportation  
on the 31st day of January, 1996

In the matter of

**INTERAMERICANA DE AVIACION,  
C.A.**

for exemptions and permit authorities under  
Title 49 of the United States Code

Docket OST-96-1009 (47778)

(47477)

(45145)

(45144)

**ORDER**

**Summary**

In this order we are vacating our actions in Order 95-10-4, dismissing various docketed applications of Interamericana de Aviacion, C.A., a foreign air carrier of Venezuela. Our action here will reinstate Interamericana's exemption authority as well as pending applications for additional authority which are more fully described below.

**Background**

By Order 95-10-4, served October 11, 1995, we dismissed all of Interamericana's applications then pending before the Department. We acted under the belief that Interamericana had suspended operations and had no plans to prosecute the applications. The dismissed applications included a request by Interamericana to renew its then effective exemption authority to conduct nonscheduled, including charter, all-cargo services between Venezuela and Miami, Florida, via Santo Domingo, Dominican Republic; Costa Rica and Haiti,<sup>1</sup> as well as three other

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<sup>1</sup> See Order 88-7-7. By application filed October 11, 1988, Interamericana filed to renew that authority. See Docket 45145. At the time of our action, Interamericana's exemption authority had expired by its terms but remained in effect under the Administrative Procedure Act, 5 USC 558(c), in light of the carrier's renewal application in Docket 45145. Our action dismissing its October 11, 1988 application thereby effectively terminated the exemption authority.

Interamericana applications which were pending at the time.<sup>2</sup>

### **Petition for Review of Order 95-10-4**

On January 19, 1996, Interamericana filed a petition for review of Order 95-10-4.<sup>3</sup>

Interamericana requests that we immediately grant it an emergency exemption from section 41301 of Title 49 of the U.S. Code to recommence Venezuela-U.S. all-cargo services pending final disposition of its petition.<sup>4</sup> Interamericana states that our dismissal of its applications was based on an incorrect assumption that it had ceased operations.

No answers to Interamericana's petition were filed.

### **Decision**

We have decided to grant Interamericana's petition for review and vacate our actions in Order 95-10-4, dismissing various docketed applications of Interamericana de Aviacion, C.A.<sup>5 6</sup> We had no intention in Order 95-10-4 of acting against applications that carriers still intended to prosecute or authorities that they were actually using. We believed, based on long-established indicia used in the preparation of such standard dismissal orders, that the individual decisions announced in Order 95-10-4 were fully consistent with our intent. Now, however, through its petition, Interamericana has presented sufficient evidence to demonstrate that it continues to be operational, and that it still seeks to prosecute the various applications it had had pending. For that reason we have decided to reinstate Interamericana's pending applications and, by so doing, to revive the APA rights attached to its previous exemption authority.<sup>7</sup> We find that

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<sup>2</sup> See Docket 45144 containing Interamericana's initial foreign air carrier permit application filed September 18, 1987, and requests by Interamericana for exemption authority to serve Bogota, Colombia (Docket 47778, filed October 3, 1991)) and Trinidad and Barbados (Docket 47477, filed March 25, 1991) as intermediate points on its authorized services between Venezuela and Miami.

<sup>3</sup> Interamericana's petition was accompanied by motion to file an otherwise unauthorized document.

<sup>4</sup> In view of our action here, we will deny Interamericana's motion for emergency exemption authority.

<sup>5</sup> We acted on this application without awaiting the full answer period with the consent of all parties.

<sup>6</sup> In all other respects, our actions in Order 95-10-4 remain in full force and effect.

<sup>7</sup> We remind Interamericana that all the conditions of its authority granted in

such action is consistent with the public interest and will allow Interamericana to recommence its all-cargo services between Venezuela and Miami.

ACCORDINGLY,

1. We grant the petition of Interamericana de Aviacion, C.A., for review of Order 95-10-4;
2. We vacate our actions in Order 95-10-4 to the extent that they relate to pending applications of Interamericana de Aviacion, C.A. in Dockets 47778, 47477, 45145 and 45144;
3. Our actions here are effective immediately;
4. To the extent not granted, we deny all requests for relief in Docket OST-96-1009;
5. We may amend, modify, or revoke this order at any time and without hearing; and
6. We will serve a copy of this Order on Interamericana de Aviacion, C.A.; the Embassy of Venezuela in the United States; the Department of Treasury (Foreign Assets Control); the Department of State (Office of Aviation Negotiations) and the Federal Aviation Administration.

By:

PAUL L. GRETCH  
Director  
Office of International Aviation

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Order 88-7-7 continue in effect.

*<http://www.dot.gov/dotinfo/general/orders/aviation.html>*

